IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Appl. No. 543 of 2005

P.C. Jain
Prop. Jain Enterprises
Situated Salab House
490, Purani Tehsil Roorkee
P.S. Gang Naher, Roorkee
District Haridwar ……..Applicant

Versus

1. State of Uttaranchal
2. J.M. Roorkee
3. Rajeev Bhardwaj S/o Shri R.D. Sharma
   R/o 247, Old Tehsil
   P.S. Gang Naher Roorkee
   District Haridwar …….Respondents.

Shri Manish Arora, learned counsel for the applicant.
Shri Parikshit Saini, learned counsel for the respondent No. 3.
Learned A.G.A. for the State.

Hon'ble Prafulla C. Pant, J

Heard learned counsel for the parties.

2. By means of this petition, moved under Section 482 of Code of Criminal Procedure, 1973 (for brevity herein after referred as Cr.P.C.), the petitioner has sought quashing of order dated 06.08.2005, passed by Judicial Magistrate, Roorkee in criminal complaint case No. 1505 of 2005 Rajeev Bhardwaj Vs. P.C. Jain, whereby the petitioner is summoned relating to offence punishable under Section 138 of Negotiable Instruments Act, 1881, in said case.

3. Learned counsel for the petitioner, drew attention of this Court to Annexure-6 to the petition, wherein a notice relating to a cheque in question (No. 912322 dated 27.04.2005, for an amount of Rs. 2,00,000/-) was given on 05.05.2005 by Shri R.D. Sharma. It is further pointed out that in respect of the same cheque another notice (Anneuxre-7) was given on 23.06.2005 by Rajeev Bharadwaj (respondent No. 3). Relying on the earlier notice, learned counsel for the petitioner argued that complaint in question, filed against the petitioner is barred by time. In this connection, he drew attention of this Court to the principle of law laid down in Sadanandan Bhadran Vs. Madhavan 1998 A.I.R. S.C.W. 2902 and Krishna Exports Vs. Raju Das (2006) 1 Supreme Court Cases (Cri) 350, in which it has been help that if two notices are given, limitation will start from the first notice. But both these cases do not help the petitioner, as in the present case, the notices are given by two different persons. It is Rajeev Bharadwaj, who gave the subsequent notice and filed a criminal complaint. Shri R.D. Sharma, who earlier sent notice, has not filed any complaint. Annexure-3 to the petition, shows that cheque in question was issued to Rajeev Bharadwaj and not to R.D. Sharma. Learned counsel for the petitioner, argued that R.D. Sharma, is father of respondent No. 3- Rajeev Bharadwaj. In the opinion of this Court, the notice given by father, who is not even complainant in the criminal complaint case, cannot be taken to be valid notice for the purposes of

limitation particularly when the cheque was not issued in his name.

4. For the reasons, as discussed above, the petition is liable to be dismissed. The same is dismissed. The interim order dated 25.08.2005, is hereby vacated. (All pending applications, in this case also stand disposed of).

Dt. 28.10.2006 **(Prafulla C. Pant, J.)**

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